



## **Board of Health Agenda**

Date: December 4, 2019

Time: 5:30 PM

Location: Ground Floor Conference Room

1. Acceptance of Meeting Minutes from October 23, 2019

2. HEARING:

Keeping of Hens - 6 Grandview Road

3. DISCUSSION:

Tobacco Regulation

4. DISCUSSION:

2020 Board of Health Meeting Dates - Draft Schedule

5. UPDATES:

Environmental

6. UPDATES:

Restaurant

7. UPDATES:

Public Health Nurse

Adjourn



## Town of Arlington, Massachusetts

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### Acceptance of Meeting Minutes from October 23, 2019

#### ATTACHMENTS:

Type	File Name	Description
Reference Material	MinutesMeeting_10232019.pdf	Meeting Minutes 10-23-2019



## **Board of Health Minutes**

Date: October 23, 2019

Time: 5:30 PM

Location: Ground Floor Conference Room

Attendance: Dr. Marie Walsh Condon, Mr. Kenneth Kohlberg, Dr. Kevin Fallon

### **1. Acceptance of Meeting Minutes from June 19, 2019**

Mr. Kenneth Kohlberg motioned to approve the minutes with the addition of "from receiving" to the end of item #3 so that it now reads: "Board Member Kenneth Kohlberg stated the Board might benefit from receiving guidance from Town Counsel." Kevin Fallon seconded the motion, with a result of Passed.

Vote: 3-0 in favor of the motion (Unanimous)

### **2. Acceptance of Meeting Minutes from August 14, 2019**

A motion to Approve was made by Kevin Fallon, and seconded by Kenneth Kohlberg, with a result of Passed.

Vote: 3-0 in favor of the motion (Unanimous)

### **3. HEARING:**

#### **Taipei-Tokyo Sushi Variance**

Inspector Kylee Sullivan informed the Board that Taipei - Tokyo recently opened at 434 Massachusetts Avenue. They submitted a variance request for using acidification, through the use of vinegar, to make cooked rice in sushi a non-potentially hazardous food and to render it non-time/temperature controlled for safety. Taipei - Tokyo is formally known as Shanghai Village and is under the same management as before but is operating under a different name. Inspector Sullivan reported that lab testing results of the acidified rice has met the requirement and all necessary HACCP plans, reports and logs have been submitted and reviewed. Mr. Andy Lian of Taipei - Tokyo was available to answer questions and reported he has experience using this method in the past. Inspector Sullivan recommended approval of the variance as submitted.

A motion was made by Kevin Fallon, and seconded by Kenneth Kohlberg, to approve the variance for Taipei-Tokyo located at 434 Massachusetts Avenue to make cooked rice a non-potentially hazardous food using acidification through the use of a vinegar solution in the preparation of sushi.

Vote: 3-0 in favor of the motion (Unanimous)

#### 4. CORRESPONDENCE RECEIVED:

Inspector Padraig Martin shared the contents of correspondence received from Dr. Lester Hartman regarding the restriction of flavored tobacco and nicotine delivery products.

Additionally, Dr. Hartman is encouraging Boards of Health to reach out to legislature regarding pending legislation including:

- House Bill H4089 (formally H1902) which is "An Act Regulating Flavored Tobacco Products" which bans all vape and tobacco flavors statewide (including mint and menthol) from convenience stores and only allows their sale and use at 21+ "smoking bars" i.e. hooka bars and cigar lounges.
- Senate Bill S1279 which is "An Act regulating flavored tobacco products".

Director Natasha Waden stated this is a good transition to Agenda Item 5 "Tobacco Regulation."

#### 5. DISCUSSION:

##### Tobacco Regulation

Director Waden spoke with Town Counsel and reviewed the possibility of scaling back the number of Tobacco and Nicotine Delivery permits issued to retail establishments as permits get turned back in to the Health Department.

Inspector Martin informed the Board that Retailers have brought 7 lawsuits against 8 communities regarding the restriction of flavored tobacco and nicotine delivery products. Currently, the Judge has thrown out all but one filing in Somerville (that the Regulation is Arbitrary and Capricious). He further stated that he spoke with officials, including D.J. Wilson, who are not expressing concern at this time and are confident in the court rulings.

Dr. Marie Walsh Condon stated she would like the Health Department to research and update the Board as to what language would be appropriate for regulations restricting flavored tobacco and nicotine delivery products for adoption in 2020. Director Waden stated she will add this item to next BOH agenda.

Mr. Kenneth Kohlberg stated he would like to review the regulations of the 16 towns that have already placed restrictions and/or bans of flavored tobacco and nicotine delivery products. He requested the regulations be provided in chronological order to review the evolution of the language.

The Board also requested draft language be provided for testimony in support of House Bill H4089 (formally H1902) and Senate Bill S1279.

## 6. DISCUSSION:

### CBD Regulation

Inspector Martin reported two communities have added CBD Restrictions to their existing Marijuana Regulations, however, he did not find any community that has created independent CBD Regulations. He further stated there is pending legislation regarding the addition of CBD to food products and in retail. Inspector Martin recommends waiting to see how these areas progress as we move forward. Inspector Sullivan also added that currently allowable levels of THC and Pesticides vary from state to state and Director Waden stated the Health Department will keep the Board updated.

## 7. UPDATES:

### Environmental

Inspector Sullivan informed the Board that construction of the coop for the Keeping of Hens Permit at Ryder Street has been placed on hold. Also she has been working with the Animal Control Officer to inspect all properties with keeping of hens permits.

Inspector Sullivan continues to work as part of the Homelessness Outreach Team and currently housing has been found for 8 individuals, one of whom was homeless for 14 years, and sheltering in the woods of Arlington.

## 8. UPDATES:

### Restaurant

Inspector Martin informed the Board that three food establishments have been permitted, including:

- Taipei - Tokyo
- Mass Hole Donuts
- Food Link

He further reported there is one new Residential Kitchen that was permitted, and two establishments are under new ownership.

## 9. UPDATES:

### Public Health Nurse

Jessica Kerr, Arlington's Public Health Nurse, reported many flu clinics have taken place including senior clinics, as well as numerous school clinics. She reported that due to staffing/nursing shortages in October, as well as other contributing factors, several school clinics

were cancelled. She reported this decision was not made lightly, however, safety needed to be the determining factor. She reported a Public Flu Clinic for all members of the community, including families and children, will be held on Thursday, October 24th from 5:00 - 8:00 pm at the Ottoson Middle School.

Jessica Kerr also reported that Mia Nardoni has been hired as the new Region 4B MRC Coordinator, and Arlington is the Host Agency for this position. Ms. Kerr stated Mia has made an incredible impact already, and has much experience not only as an MRC Volunteer, but also brings much enthusiasm to the field of Emergency Preparedness.

#### PUBLIC COMMENT

Public Comment moved prior to Agenda Item 7 per Board Approval.

Ms. Bethany Porciello, a UMASS Boston Student, inquired if there are any 21+ smoking bars or cigar lounges currently in Arlington. Director Waden informed her there are not, and any effort to limit flavored tobacco and nicotine delivery products to 21+ establishments is an effort to limit access to youth.

Attorney Adam Ponte, an Attorney for Fletcher Tilton PC, who represents the Coalition for Responsible Retailing addressed the Board and stated he represents store owners and his firm has been responsible for many of the lawsuits brought against communities regarding restrictions for flavored tobacco and nicotine delivery products. He was joined by Paresh Patel of Easy Convenience. Attorney Ponte said his firm represents responsible store owners, and not the tobacco industry. He reported results of "FDA Sting Operations" over the last 3 years in Arlington had 100% compliance in not selling to youth. He also stated he was unaware if Arlington conducts its own "Sting Operations" and if so, he was not aware of the results. Dr. Marie Walsh Condon stated Arlington does conduct their own Compliance Checks. Attorney Ponte stated there are many things that retailers can do to prevent sales to youth including limiting the number of product sales per day to each customer, and scanning every I.D. He further stated that their research indicates that youth are not attracted to flavored tobacco (menthol/mint) products and vapes are beneficial for adults who are trying to quit smoking cigarettes. Attorney Ponte offered to be used as a resource to the Board, and hopes the Board will listen to experts on their side before making any decisions regarding Arlington's regulations. He further encouraged the Board to review information provided from their experts.

Adjourn



## Town of Arlington, Massachusetts

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**Keeping of Hens - 6 Grandview Road**

**ATTACHMENTS:**

Type	File Name	Description
Reference Material	6_Grandview_Rd_Hens.pdf	6 Grandview Rd Hens



**Town of Arlington**  
**Department of Health and Human Services**  
**Office of the Board of Health**

27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

**MEMO**

To: Board of Health Members  
From: Kylene Sullivan, Health Compliance Officer  
Date: November 26, 2019  
RE: Keeping of Hens Request at 6 Grandview Road

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Brad O'Donnell submitted a Keeping of Hens Site Plan Review Application for 6 Grandview Road on November 22, 2019. The property's dwelling is a single-family structure owned by the applicant. Mr. O'Donnell is currently keeping eight hens on this property. The property has five abutters. Abutters were notified by the applicant of his intent to receive a permit for the keeping of hens via a hand delivered and signed letter. The letter notified the abutters of a Board of Health hearing to be held on December 4, 2019 at 5:30pm.

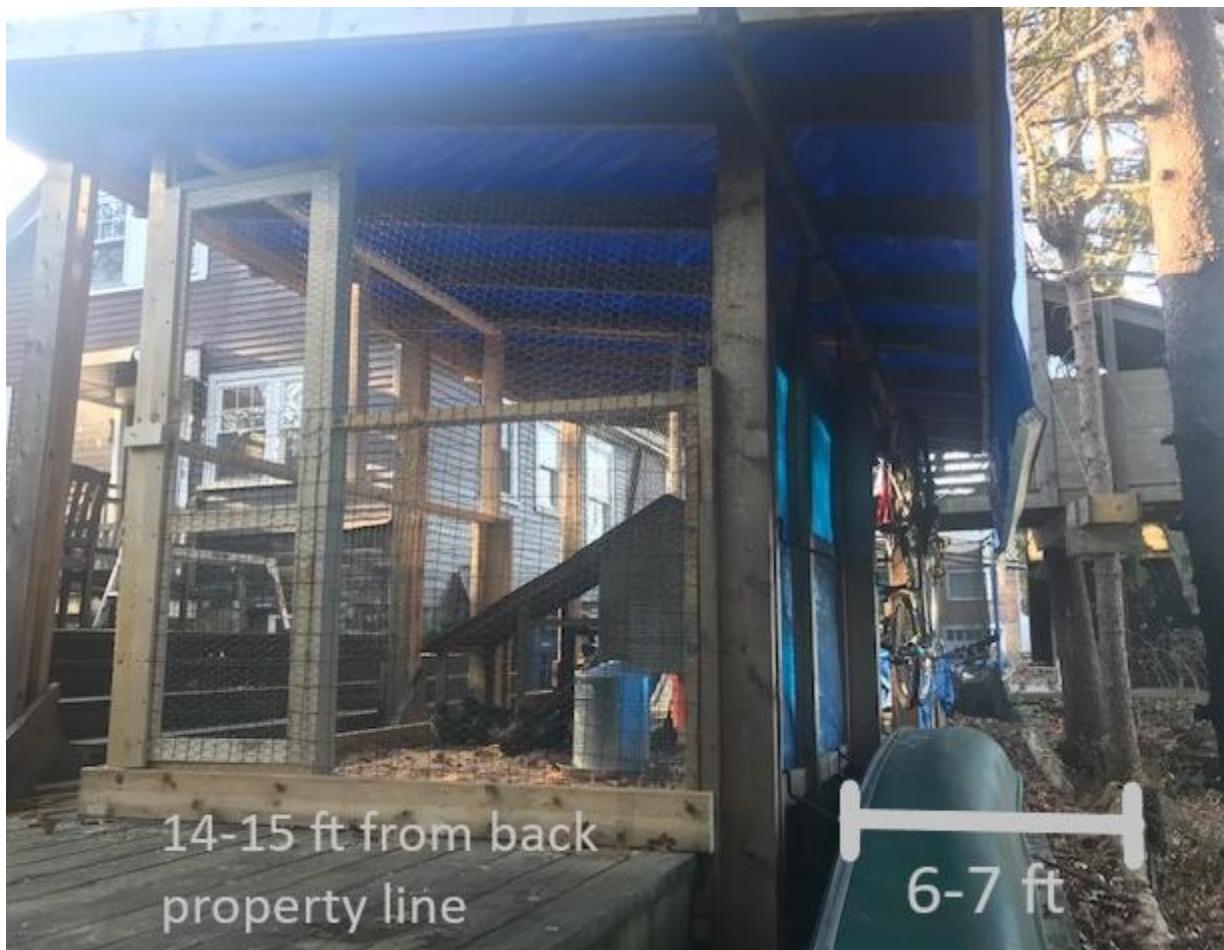
The attached application provided by the applicant illustrates that all distance requirements set forth in the Town Bylaw are satisfied; the coop's location does not violate the six feet minimum distance from all property lines. A site walk conducted on November 25, 2019 verified the location of the coop/pen and the structure. During this visit the presence of eight bantam hens on the property was also confirmed. The Bylaw limits the number of hens to be kept on a property to six. Please note, the size of the chicken henhouse (approximately 14.5 Sq Ft) allows a maximum of seven hens to be kept to comply with the Bylaw's requirement of 2 Sq Ft per hen in the henhouse.

During the site walk on November 25<sup>th</sup>, Mr. O'Donnell reported rodent activity on the property. Rodent activity was not observed around or in the coop during the inspection.

Mr. O'Donnell has been made aware of the requirement to participate in a keeping of hens course and has been notified of an upcoming course in Arlington in March.

Included with this memo please find a site diagram of the coop as well as an inspection report from the November 25<sup>th</sup> site walk.

## 6 Grandview Road – Site Visit Diagram



Coop Measurements: 6'10" x 8'6"



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health

27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

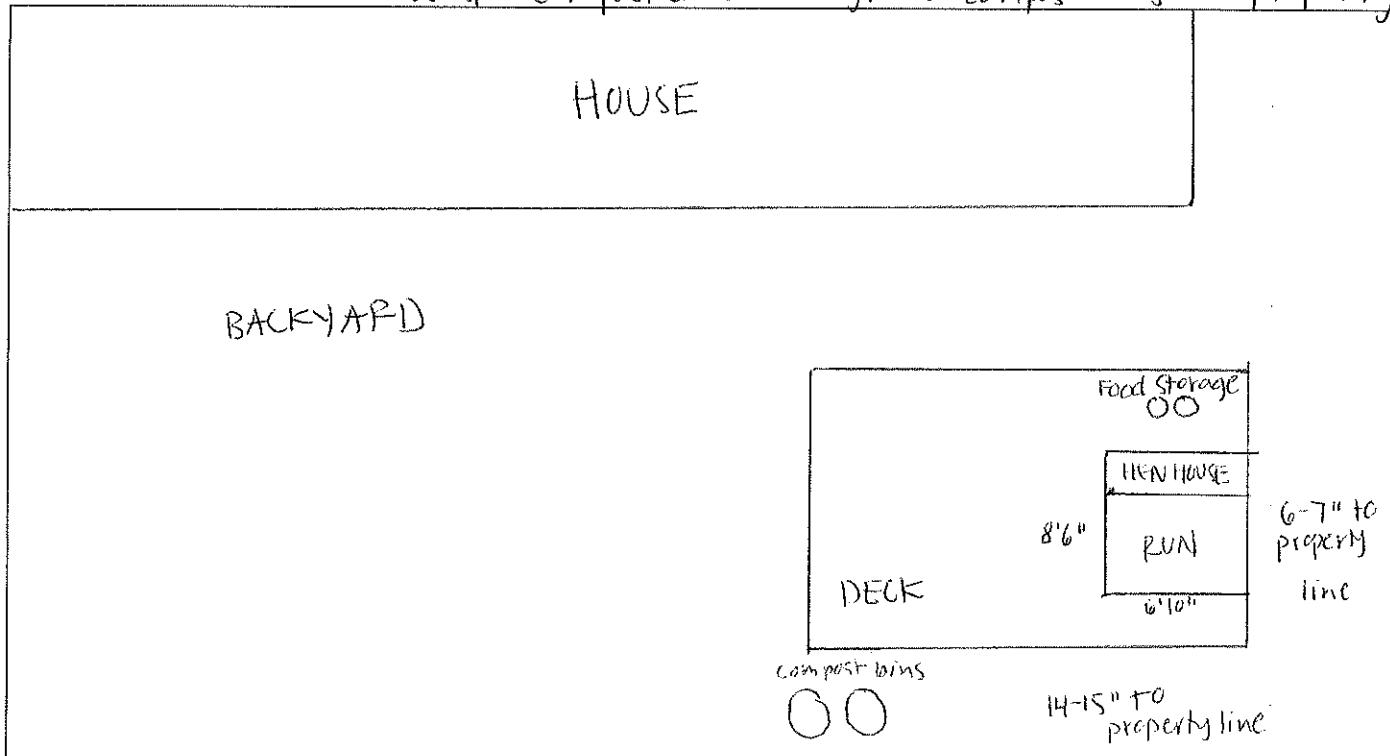
### Henhouse/Pen Enclosure Inspection

Name of Applicant: Brad O'Donnell Tel #: 408-966-3669

Address: 6 Grandview Rd Email: Bradodonnell@mac.com

Number of hens to be kept: 8

1. Total square feet of henhouse: 14.45 (2 Sq. ft./ hen) Square feet of pen enclosure: 43.35 (5 Sq. ft./ hen)
2. Protection from elements: Roof with a tarp
3. Protection from predators: 2-3 Layers of chicken wire around coop & Wood floor
4. Food and waste storage: Food stored in rigid plastic containers on property  
Waste composted on 2 ground compost bins on property



Notes: 8 bantam hens being kept on property currently.  
Applicant reports rodent activity on property and plans  
on pursuing curbside pickup for Kitchen Scrap Composting.  
No signs of rodent activity around/in coop.

Inspector: K. Sullivan Date: 11/25/2019 Approved: \_\_\_\_\_



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

WED OCT. 23<sup>nd</sup>  
5:30 PM  
BOARD OF HEALTH:  
CHICKENS  
27 MA

## KEEPING OF HENS SITE PLAN REVIEW APPLICATION

*These guidelines are not final requirements. The Board of Health may require additional information based on the type and location of operation.*

Plan Review Fee: \$150.00 (checks made payable to: Town of Arlington)

For office use only: Date/time application received: \_\_\_\_\_ Received by: \_\_\_\_\_  
(BOH Staff)

APPLICANT NAME: BRAD O'DONNELL / JESSICA HARPER  
APPLICANT ADDRESS: 6 GRANAVIEW RD ARLINGTON MA 02476  
CONTACT NUMBER: bradodonnell @mac.com ↗  
CONTACT EMAIL: 408 966 3669 ↙

### Keeping of Hens Application Process Summary

1. Submit this Site Plan Review Application to Health Department with check for \$150.
2. Health Department reviews application and conducts site walk.
3. After plan review and site walk, a meeting date with the Board of Health is set. The applicant will notify all abutters at least 14 days but no more than 30 days prior to the hearing, of their intent to keep hens and the BOH hearing date, time and location. Abutters shall include both owners and tenants. The applicant shall provide verification of notification in the form of a signed letter or USPS receipt that a certified letter has been received.
4. A meeting with the Board of Health is held and a decision made to approve or deny application based upon all requirements set forth in town bylaw.
5. Once approved by the Board of Health, the applicant is required to submit an Application for Annual Permit to Keep Hens to the Health Department with a check for \$100 and the applicant will be permitted to construct coop and pen.
6. A final inspection is conducted once coop and pen have been constructed and final approval to keep hens is granted.
7. An annual permit to keep hens is required through the Health Department expiring April 1st of every year. A renewal permit must be obtained. Permit holders that fail to renew their keeping of hens permit prior to April 1<sup>st</sup> are subject to a \$100 reinstatement fee.
8. An annual inspection will be conducted by the Health Department. Failure to meet requirements set forth in the town bylaws may result in a re-inspection fee of \$100 and a hearing with the Board of Health to determine whether permit should be revoked, suspended, or subject to further conditions.

### CIRCLE/ANSWER THE FOLLOWING QUESTIONS:

Is the applicant the sole owner of the property where hens will be kept?  
If no, please provide signed written statements from all property owners granting permission for the keeping of hens.

YES/NO

What is the size of the property lot in square feet? 10881

## I. HENHOUSE / PEN:

### 1. Location

- a. Will the henhouse/pen enclosure be in the rear yard of the property? YES/NO
- b. Will the henhouse/pen enclosure be at least six (6) feet from all property lines? YES/NO
- c. Will the henhouse/pen enclosure be at least 25 feet from existing residences on adjacent lots? YES/NO
- d. Will the henhouse/pen enclosure be located at least 200 feet from the high water mark of any known source of drinking water supply or any tributary thereof, and at least 50 feet from any well? YES/NO
- e. Will the henhouse/pen enclosure conform to all relevant property setbacks for accessory structures as specified in sections 6.18 and 8.23 of the zoning bylaws? YES/NO
- f. Will the henhouse/pen enclosure interfere with any utility or other feature of the property that needs suitable access? YES/NO
- g. Will the henhouse/pen enclosure be located in a well-drained area that does not discharge to a public way or neighbor's property? YES/NO
- h. Please provide a certified plot plan depicting all of the following: all structures on property, all structures on abutting properties, and proposed locations of the henhouse/pen enclosure, composting/manure storage and food storage.

### 2. Construction

- a. Will the henhouse enclosure provide a minimum interior floor surface of at least two (2) square feet per bird? YES/NO
- b. Will the pen enclosure provide a minimum ground surface of at least five (5) square feet per bird? YES/NO
- c. Will the henhouse/pen enclosure be securely constructed in a manner that excludes predators and pests, including those that fly, burrow and reach? YES/NO
- d. Will the pen enclosure have a predator and pest proof material across the top? YES/NO
- e. Will the henhouse provide protection from the elements as needed? YES/NO
- f. Will the henhouse be constructed in such a manner and with such materials that allow for effective weekly cleaning? YES/NO
- g. Please provide a separate detailed description of the henhouse/ pen enclosure, including square footages and photographs if possible.

### 3. Maintenance

a. Will the feed be securely stored in a rodent and pest proof container?  YES/NO

b. Will the feed leftover from feeding remain in an area accessible to rodents and pests past dusk?  YES/NO

c. If weather is too cold, or composting is otherwise not possible, will there be a sealable container for waste to be stored until disposal?  YES/NO

d. If composting is possible, how and where will waste be composted with carbonaceous material such as hay, bedding, or leaves? Please identify composting/ manure storage location on required certified plot plan.

THE TOWN PROVIDED COMPOST BINS

e. What measures will be taken to prevent the buildup of pests or rodent populations due to the presence of hens on the property?

ALL FOOD WILL BE INACCESSIBLE, THE PEN WILL BE ROBENT-PROOF

f. Please provide a separate detailed written maintenance plan describing the following: cleaning practices and schedule for the henhouse/pen enclosure and feed and water containers, which anti-bacterial/viral cleaning solution will be used, which bedding material will be used in the henhouse and at which depth it will be provided, how frequently the bedding material will be composted, and any other appropriate nuisance (odor & noise) prevention measures that will be taken.

## **II. HENS:**

### 1. Hen keeper

a. Will the hen keeper be taking, or has the hen keeper taken, a class in keeping hens?  YES/NO  
If yes, please provide a copy of a certificate of completion from a hen-keeping course.

b. Will there be a knowledgeable person in charge to care for hens during vacations or extended leaves?  YES/NO

**2. Source**

- a. What type of hens and how many hens will you be keeping?

BANTAM HENS, WE CURRENTLY HAVE  
EIGHT (8) AND WILL NOT REPLACE THE  
NEXT TWO WHO DIE.

- b. Will the hens be acquired from S. pullorum clean sources from National Poultry Improvement Plan (NPIP) participants?

YES NO

- c. Where will the hens be acquired from and what documentation will be provided?

ALREADY ACQUIRED

**3. Health & Disease Concerns**

- a. Will the hens be vaccinated from any communicable diseases?

YES NO

If yes, from what?

- b. Will newly acquired hens be isolated from healthy resident birds?

YES NO

If yes, where and for how long?

- c. Will the hens be separated from wild migratory fowl at all times?

YES NO

- d. What will be done with a hen if it dies?

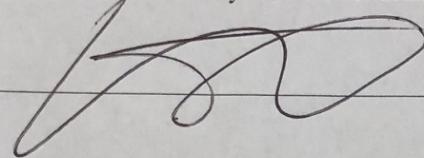
DOUBLE-BAGGED AND DISPOSED OF

**To complete this application the following materials must be provided:**

- Copy of list of property abutters obtained from Town of Arlington Assessors Office
- If applicant is not sole property owner, signed written statements from all property owners granting permission for the keeping of hens
- Plot plan drawn to scale depicting all of the following: all structures on property, all structures on abutting properties, proposed locations of the henhouse/pen enclosure, composting/manure storage and food storage, and distance of henhouse and pen from property lines and existing adjacent residences. The BOH reserves the right to require the applicant to provide a plot plan certified by a professional engineer or land surveyor to resolve any questions or disputes relating to the conformance of the placement of the henhouse and pen with any and all relevant property setbacks and zoning bylaw requirements.
- Written maintenance plan and description of henhouse/pen enclosure
- Copy of certificate of completion from a hen-keeping course if applicable
- After a BOH hearing date has been set, submit a copy of signed letter or receipt from USPS that a certified letter has been received by each abutter informing them of your application to keep hens and notifying them of the BOH hearing date, time and location. Abutters include both property owners and tenants.

I have read the town bylaws regarding the keeping of hens and understand the requirements as outlined. I understand failure to comply with the requirements of the town bylaws and failure to prevent a public health nuisance may result in revocation of my Permit to Keep Hens.

Signature:

A handwritten signature consisting of stylized, flowing letters, appearing to begin with 'J' or 'L' and ending with 'D'.

Date:

11.20.19

-----Office use only-----

Board of Health Meeting Date Assigned: \_\_\_\_\_

Brad O'Donnell  
6 Grandview Rd  
Arlington, MA 02476  
408-966-3669  
[bradodonnel@mac.com](mailto:bradodonnel@mac.com)

November 26, 2019

Kylee Sullivan, MPH  
Health Compliance Officer  
Town of Arlington  
27 Maple Street  
Arlington, MA 02476  
(781) 316-3170

Dear Kylee,

Per your request, here is my proposed maintenance plan for the 6' x 8' chicken coop/henhouse at 6 Grandview Rd:

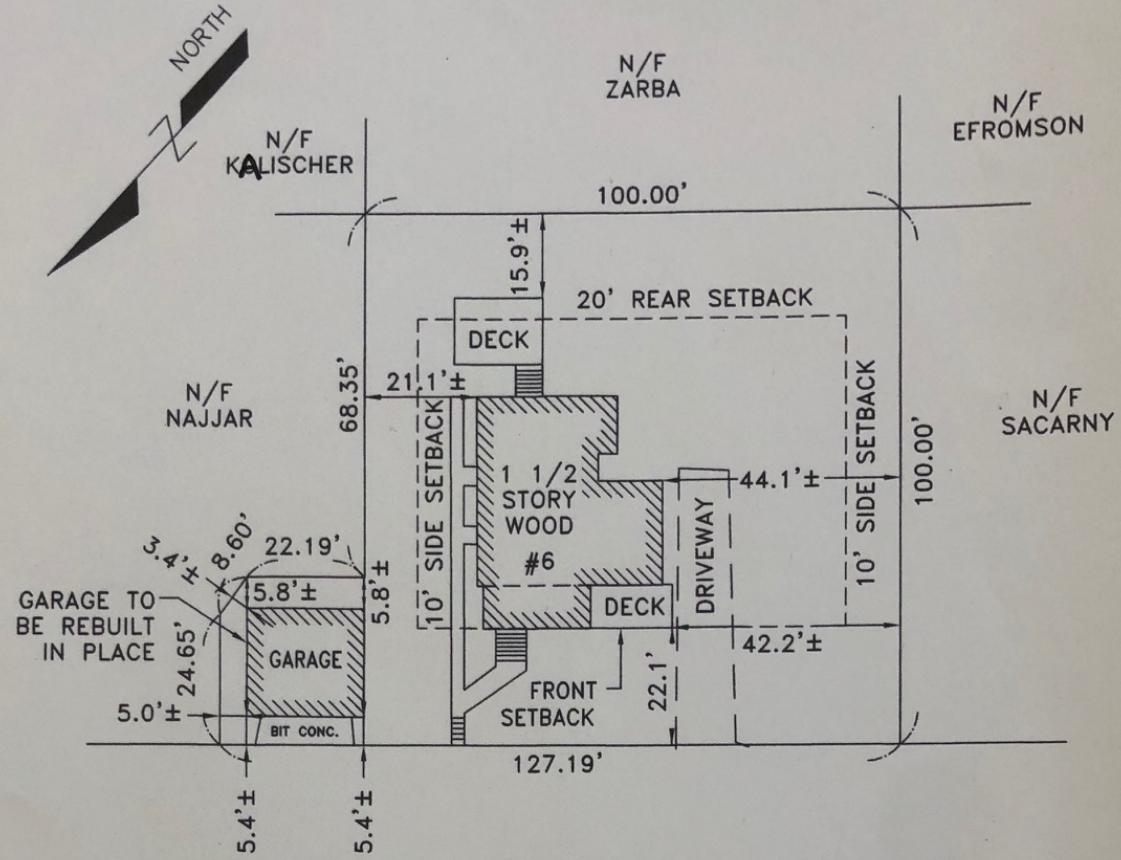
We will use wood shavings/chips as bedding material. The wood will either be pine or douglas fir and the chips will be to a depth of three to four inches. In order to limit odor, we will change the bedding as necessary, but at intervals of not greater than once per week, per Article 8, Section 3, b, iii. We will compost the wood chips in town-provided cylindrical compost bins already installed on our property.

We will clean both food storage containers, as well the chickens' waterer and feeder, each week, using a vinegar solution. In the winter, we will keep the waterer indoors at night to ensure the chickens a fresh supply of water each morning.

The coop/henhouse and pen are predator proof, having a solid wood bottom under the bedding, two and even three layers of chicken wire, a roof, and sturdy wood framing. The coop should also be effective at keeping rodents out.

Sincerely yours,

Brad O'Donnell

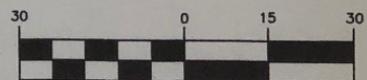


## GRAND VIEW ROAD

ZONE R-1

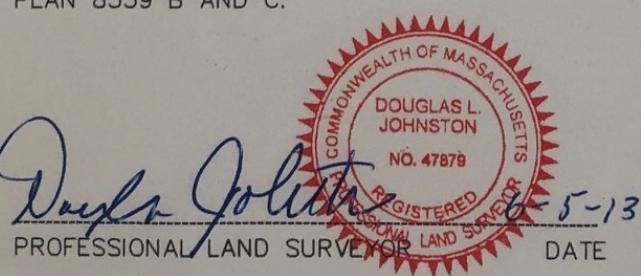
LOT AREA= 10,843 S.F. $\pm$   
LOT COVERAGE= 15.6%  
OPEN SPACE= 73.5%

PEAK OF GARAGE IS 15.60'  
ABOVE AVERAGE GRADE.



( IN FEET )  
1 inch = 30 ft.

SEE DEED RECORDED IN MIDDLESEX COUNTY  
REGISTRY OF DEEDS IN DEED BOOK 52322 PAGE  
410, AND PLAN BOOK 113, PLAN 32, AND LC  
PLAN 8539 B AND C.



PROFESSIONAL LAND SURVEYOR DATE

CERTIFIED PLOT PLAN  
6 GRAND VIEW ROAD, ARLINGTON, MA  
SCALE: 1" = 30' JUNE 5, 2013  
DLJ GEOMATICS  
PROFESSIONAL LAND SURVEYING  
276 NORTH STREET  
WEYMOUTH, MA 02191  
(781) 812-0457  
6 GRANDVIEW RD ARLINGTON.dwg

# BLACK CEDAR STUDIO

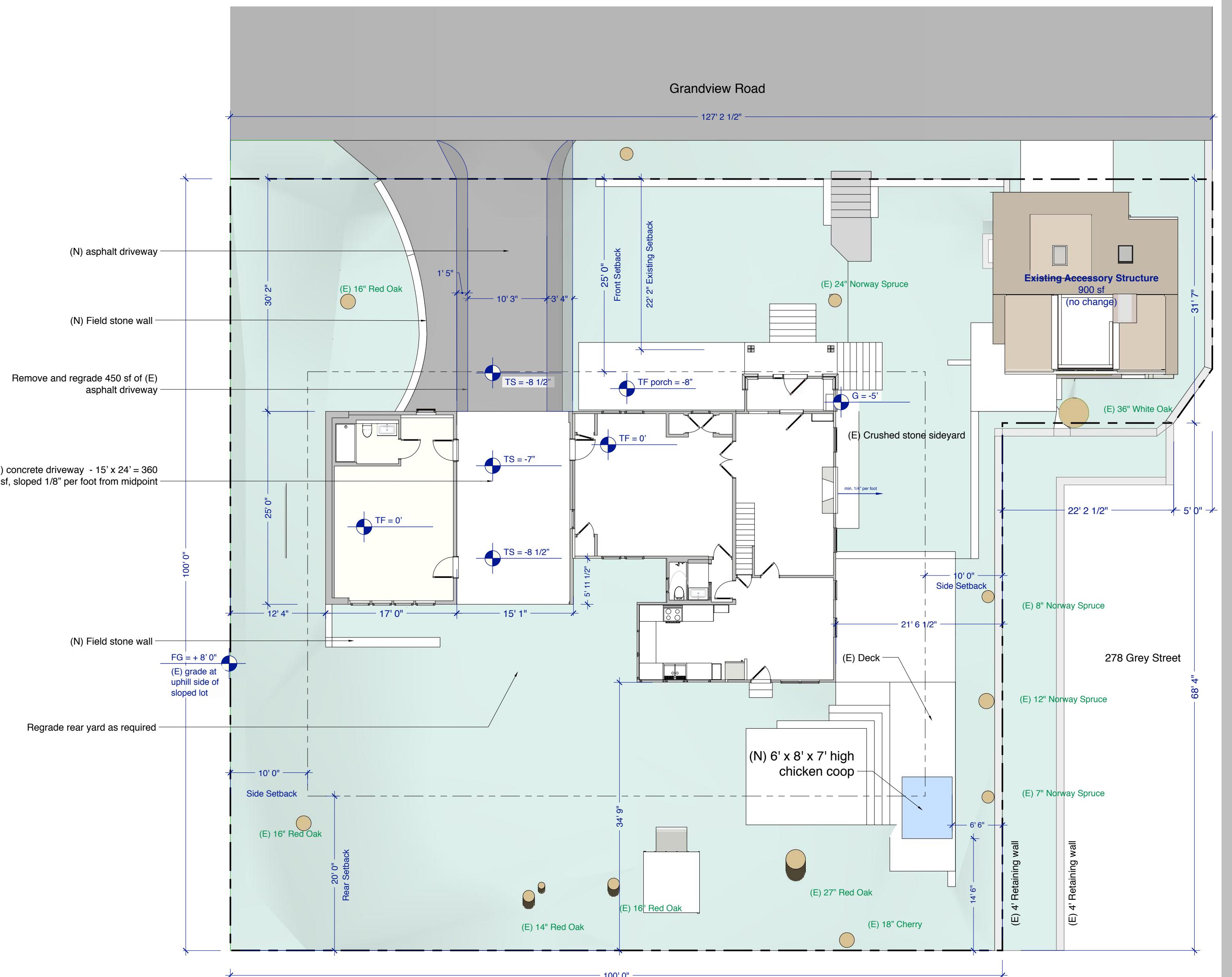
by Brad O'Donnell  
CA Architect License No. 33785  
for Black Cedar Studio LLC  
bradodonnell@mac.com  
408-966-3669

a Remodel / Addition to the  
Haberer O'Donnell  
Residence  
6 Grandview Road  
Arlington MA 02476

7-4-2017  
8-16-2017  
12-4-2017  
2-4-2019

**Site Plan**  
scale 1" = 10'

**C1**

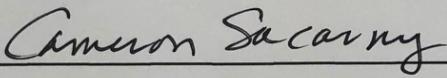
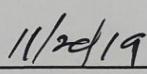
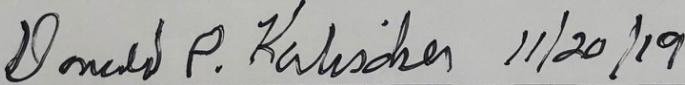
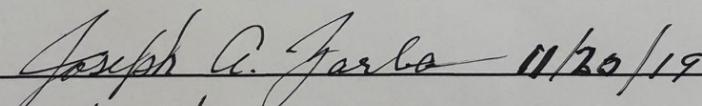
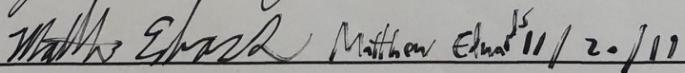


## Abutter's Notification:

Brad O'Donnell and Jessica Haberer at 6 Grandview Rd will be asking the Town for permission to keep chickens on their property in accordance with Article 8: Keeping of Hens/Poultry of the Town Bylaws.

We will ask permission at the Board of Health meeting on December 4th, 2019 at 5:30pm at the Senior Center on Maple Lane, Arlington.

Signing below indicates that you have been made aware of the meeting time and place and that you understand that you are welcome to attend if you have questions/concerns about the application.

	Name	Signature	Date
10 Grandview Rd	Ammon Sacarney		11/20/19
278 Gray St			11/20/19
3 Pineridge Rd	Donald P. Kalischeck		11/20/19
7 Pineridge Rd	Joseph A. Farbo		11/20/19
11 Pineridge Rd	Matthew Edward		11/20/19

**Abutters List**

Date: November 26, 2019

[print this list](#)

Subject Property Address: 6 GRAND VIEW RD Arlington, MA  
Subject Property ID: 150-8-9

Search Distance: 0 Feet

---

Prop ID: 141-4-2

Prop Location: 3 PINE RIDGE RD Arlington, MA

Owner: KALISCHER DONALD P

Co-Owner:

Mailing Address:

3 PINE RIDGE ROAD  
ARLINGTON, MA 02476

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Prop ID: 141-4-3

Prop Location: 7 PINE RIDGE RD Arlington, MA

Owner: ZARBA JOSEPH A--ETAL

Co-Owner: ZARBA TERESA A

Mailing Address:

7 PINE RIDGE RD  
ARLINGTON, MA 02476

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Prop ID: 143-1-1

Prop Location: 11 PINE RIDGE RD Arlington, MA

Owner: EDWARDS AMANDA L & MATTHEW D

Co-Owner:

Mailing Address:

11 PINE RIDGE RD  
ARLINGTON, MA 02476

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Prop ID: 150-8-10.B

Prop Location: 278 GRAY ST Arlington, MA

Owner: ALUIA JOSEPH & CAROLINE

Co-Owner:

Mailing Address:

278 GRAY STREET  
ARLINGTON, MA 02476

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Prop ID: 150-8-8

Prop Location: 10 GRAND VIEW RD Arlington, MA

Owner: SACARNY MICHAEL J--ETAL

Co-Owner: BOHN CAMERON E

Mailing Address:

10 GRAND VIEW RD  
ARLINGTON, MA 02476

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## Town of Arlington, Massachusetts

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### Tobacco Regulation

#### ATTACHMENTS:

Type	File Name	Description
□ Reference Material	Tobacco_Update_Memo_1242019.pdf	Tobacco Update Memo
□ Reference Material	Draft_Amendments_11-20-2019-Regulations_Restricting_the_Sale_of_Tobacco_and_Nicotine_Delivery_Products.pdf	REGULATION RESTRICTING THE SALE OF TOBACCO PRODUCTS AND NICOTINE DELIVERY PRODUCTS
□ Reference Material	Tobacco_Reg_List.pdf	Tobacco Regulation List



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

To: Board of Health  
From: Padraig Martin  
Date: November 25, 2019  
RE: Tobacco Update

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During the last Board of Health meeting on October 23, 2019 the Board requested language for removing the mint, menthol, and wintergreen exemption from the Town's REGULATION RESTRICTING THE SALE OF TOBACCO PRODUCTS AND NICOTINE DELIVERY PRODUCTS. Enclosed is an updated draft of the regulations to include that language, as well as language for advanced capping.

In addition to these updates, there is also language added for restricting the sale of marijuana accessories to adult-only retail tobacco stores. This addition has been included to provide consistency with the Town's REGULATION TO ENSURE THE SANITARY AND SAFE OPERATION OF ADULT-USE MARIJUANA ESTABLISHMENTS AND THE SALE OF ADULT-USE MARIJUANA.

Also included are excerpts from the relevant sections of regulations from the 16 cities and towns who have un-exempted mint, menthol, and wintergreen. They are listed in order of date passed.



**Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health**

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**REGULATION RESTRICTING THE SALE OF TOBACCO PRODUCTS AND NICOTINE DELIVERY PRODUCTS**

**A. STATEMENT OF PURPOSE:**

Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat<sup>1</sup>;

Whereas among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station<sup>2</sup>;

Whereas nationally in 2009, 72% of high school smokers and 66% of middle school smokers were not asked to show proof of age when purchasing cigarettes<sup>3</sup>;

Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin<sup>4</sup>;

Whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major public health problem;

Whereas many non-cigarette tobacco products, such as cigars and cigarillos, can be sold in a single “dose;” enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth<sup>5</sup>;

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<sup>1</sup> Center for Disease Control and Prevention, (CDC) (2012), *Health Effects of Cigarette Smoking Fact Sheet*. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm).

<sup>2</sup> CDC (2009), *Youth Risk Behavior Surveillance Summaries* (Morbidity and Mortality Weekly Report (MMWR) 2010: 59, 11 (No. SS-55)) Retrieved from: <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.

<sup>3</sup> CDC Office of Smoking and Health, National Youth Tobacco Survey, 2009. Analysis by the American Lung Association (ALA), Research and Program Services Division using SPSS software, as reported in “Trends in Tobacco Use”, ALA Research and Program Services, Epidemiology and Statistics Unit, July 2011. Retrieved from: [www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf](http://www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf).

<sup>4</sup> CDC (2010), *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/sgr/2010/](http://www.cdc.gov/tobacco/data_statistics/sgr/2010/).

Whereas according to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days went from 11.8% in 2003 to 14.9% in 2009<sup>6</sup>;

Whereas survey results show that more youth report that they have smoked a cigar product when it is mentioned by name, than report that they smoked a cigar in general, indicating that cigar use among youth is underreported<sup>7</sup>;

Whereas in Massachusetts, youth use of all other tobacco products, including cigars, rose from 13.3% in 2003 to 17.6% in 2009, and was higher than the rate of current cigarette use (16%) for the first time in history<sup>8</sup>;

Whereas research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a 10% increase in cigar prices would reduce use by 3.4%<sup>9</sup>;

Whereas nicotine levels in cigars are generally much higher than nicotine levels in cigarettes<sup>10</sup>;

Whereas Non-Residential Roll-Your-Own (RYO) machines located in retail stores enable retailers to sell cigarettes without paying the excise taxes that are imposed on conventionally manufactured cigarettes. High excise taxes encourage adult smokers to quit<sup>11</sup> and high prices deter youth from starting.<sup>12</sup> Inexpensive cigarettes, like those produced from RYO machines, promote the use of tobacco, resulting in a negative impact on public health and increased health care costs, and severely undercut the evidence-based public health benefit of imposing high excise taxes on tobacco;

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<sup>5</sup> CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 12, note 5). Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>.

<sup>6</sup> CDC (2009) *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 72 (No SS-55)). Retrieved from: [www.cdc.gov](http://www.cdc.gov); and CDC (2003), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2004: 53, 54 (No. SS-02)).

<sup>7</sup> 2010 Boston Youth Risk Behavior Study. 16.5% of Boston youth responded that they had ever smoked a fruit or candy flavored cigar, cigarillo or little cigar, while 24.1% reported ever smoking a "Black and Mild" Cigar.

<sup>8</sup> Commonwealth of Massachusetts, Data Brief, Trends in Youth Tobacco Use in Massachusetts, 1993-2009. Retrieved from: [http://www.mass.gov/Eeohhs2/docs/dph/tobacco\\_control/adolescent\\_tobacco\\_use\\_youth\\_trends\\_1993\\_2009.pdf](http://www.mass.gov/Eeohhs2/docs/dph/tobacco_control/adolescent_tobacco_use_youth_trends_1993_2009.pdf).

<sup>9</sup> Ringel, J., Wasserman, J., & Andreyeva, T. (2005) *Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey*. American Journal of Public Health, 95(6), 995-998, doi: 10.2105/AJPH.2003.030411 and cited in *Cigar, Cigarillo and Little Cigar Use among Canadian Youth: Are We Underestimating the Magnitude of this Problem?*, J. Prim. P. 2011, Aug: 32(3-4):161-70. Retrieved from: [www.ncbi.nlm.nih.gov/pubmed/21809109](http://www.ncbi.nlm.nih.gov/pubmed/21809109).

<sup>10</sup> National Institute of Health (NIH), National Cancer Institute (NCI) (2010). *Cigar Smoking and Cancer*. Retrieved from: <http://www.cancer.gov/bca/cancertopics/factsheet/Tobacco/cigars>.

<sup>11</sup> Eriksen, M., Mackay, J., Ross, H. (2012). *The Tobacco Atlas*, Fourth Edition, American Cancer Society, Chapter 29, p. 80. Retrieved from: [www.TobaccoAtlas.org](http://www.TobaccoAtlas.org).

<sup>12</sup> Chaloupka, F. J. & Liccardo Pacula, R., NIH, NCI (2001). *The Impact of Price on Youth Tobacco Use, Smoking and Tobacco Control Monograph 14: Changing Adolescent Smoking Prevalence*) 193 – 200. Retrieved from: <http://dccps.nih.gov/TCRB/monographs/>.

Whereas it is estimated that 90% of what is being sold as pipe tobacco is actually being used in Non-Residential RYO machines. Pipe tobacco shipments went from 11.5 million pounds in 2009 to 22.4 million pounds in 2010. Traditional RYO tobacco shipments dropped from 11.2 million pounds to 5.8 million pounds; and cigarette shipments dropped from 308.6 billion sticks to 292.7 billion sticks according to the December 2010 statistical report released by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB)<sup>13</sup>;

Whereas the sale of tobacco products and nicotine delivery products are incompatible with the mission of health care institutions because these products are detrimental to the public health and their presence in health care institutions undermine efforts to educate patients on the safe and effective use of medication, including cessation medication;

Whereas educational institutions sell tobacco products to a younger population, who is particularly at risk for becoming smokers and such sale of tobacco products and nicotine delivery products are incompatible with the mission of educational institutions that educate a younger population about social, environmental and health risks and harms;

Whereas sales of flavored little cigars increased by 23% between 2008 and 2010<sup>14</sup>; and the top three most popular cigar brands among African-American youth aged 12-17 are the flavored and low-cost Black & Mild, White Owl, and Swisher Sweets;<sup>15</sup>

Whereas the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,<sup>16</sup> largely because these flavored products were marketed to youth and young adults,<sup>17</sup> and younger smokers were more likely to have tried these products than older smokers;<sup>18</sup>

Whereas although the manufacture and distribution of flavored cigarettes (excluding menthol) is banned by federal law,<sup>19</sup> neither federal nor Massachusetts laws restrict sales of flavored non-cigarette tobacco

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<sup>13</sup> TTB (2011). *Statistical Report – Tobacco* (2011) (TTB S 5210-12-2010). Retrieved from: <http://www.ttb.gov/statistics/2010/201012tobacco.pdf>.

<sup>14</sup> Delnevo, C., Flavored Little Cigars memo, September 21, 2011, from Neilson market scanner data.

<sup>15</sup> SAMSHA, Analysis of data from the 2011 National Survey on Drug Use and Health

<sup>16</sup> 21 U.S.C. § 387g.

<sup>17</sup> Carpenter CM, Wayne GF, Pauly JL, et al. 2005. “New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies.” *Health Affairs*. 24(6): 1601–1610; Lewis M and Wackowski O. 2006. “Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands.” *American Journal of Public Health*. 96(2): 244–251; Connolly GN. 2004. “Sweet and Spicy Flavours: New Brands for Minorities and Youth.” *Tobacco Control*. 13(3): 211–212; U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>18</sup> U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic smoking devices and the nicotine solutions used in these devices;

Whereas the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be “starter” products that help establish smoking habits that can lead to long-term addiction;<sup>20</sup>

Whereas data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;<sup>21</sup>

Now, therefore it is the intention of the Arlington Board of Health to regulate the sale of tobacco products and nicotine delivery products.

#### **B. AUTHORITY:**

This regulation is promulgated pursuant to the authority granted to the Arlington Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

#### **C. DEFINITIONS:**

For the purpose of this regulation, the following words shall have the following meanings:

**Blunt Wrap:** Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

**Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

**Cigar:** Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

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<sup>19</sup> 21 U.S.C. § 387g

<sup>20</sup> Food and Drug Administration. 2011. Fact Sheet: Flavored Tobacco Products, [www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf](http://www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf); U.S. Department of Health and Human Services. 2012. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>21</sup> King BA, Tynan MA, Dube SR, et al. 2013. “Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students.” Journal of Adolescent Health. [Article in press], [www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract](http://www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract).

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Component part:** Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

**Constituent:** Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

**Distinguishable:** Perceivable by either the sense of smell or taste.

**E-Cigarette:** Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

**Educational Institution:** Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

**Employee:** Any individual who performs services for an employer.

**Employer:** Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

**Health Care Institution:** An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

Marijuana Accessories: Equipment, products, devices or materials of any kind that are intended or designed for use in ingesting, inhaling or otherwise introducing adult-use marijuana into the human body.

Minor: Any individual who is under the age of eighteen (18).

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Permit Holder: Any person engaged in the sale or distribution of tobacco or nicotine delivery products directly to consumers who applies for and receives a tobacco and nicotine delivery product sales permit or any person who is required to apply for a Tobacco and Nicotine Delivery Product Sales Permit pursuant to these regulations, or his or her business agent.

Retail Tobacco Store: An establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Arlington Board of Health.

Self-Service Display: Any display from which customers may select a tobacco product or a nicotine delivery product without assistance from an employee or store personnel.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff or tobacco in any of its forms. Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes, any other tobacco product or nicotine delivery product.

#### **D. TOBACCO AND NICOTINE DELIVERY PRODUCT SALES PROHIBITED:**

1. No person shall sell tobacco products or nicotine delivery products or permit tobacco products or nicotine delivery products to be sold to any person under the age of twenty-one (21) or not being the

recipient's parent or legal guardian, give tobacco products or nicotine delivery products to any person under the age of twenty-one.

## 2. Required Signage

- a. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Arlington Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 feet or greater than 9 feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- b. The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating The sale of nicotine delivery products to persons under the age of ( as outlined in Section D.1) is prohibited. The owner or other person in charge of a shop or other place used to sell e-cigarettes at retail shall conspicuously post a sign stating, "The use of e-cigarettes at indoor establishments may be prohibited by local law." The notices shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at, or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 or greater than 9 feet from the floor.
- c. In addition to the notice required Section D 2. (a), a notice provided by the Arlington Board of Health shall also be posted by the owner or other person in charge thereof in the shop or other place used to sell tobacco and nicotine delivery products at retail. Such notice shall state that the sale of tobacco products to person's under the age as outlined in Section D.1. is illegal.
- d. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post signage provided by the Arlington Board of Health that discloses current referral information about smoking cessation.

3. Identification: Each person selling or distributing tobacco or nicotine delivery products shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is at the age stated in Section (D) (1) or older. Verification is required for any person that appears under the age of 27.

4. All retail sales of tobacco or nicotine delivery products must be face-to-face between the seller and the buyer and occur at the permitted location.

**E. TOBACCO AND NICOTINE DELIVERY PRODUCT SALES PERMIT:**

1. No person shall sell or otherwise distribute tobacco or nicotine delivery products at retail establishments within the Town of Arlington without first obtaining a Tobacco and Nicotine Delivery Product Sales Permit issued annually by the Arlington Board of Health. Only owners of establishments with a permanent, non-mobile location in Arlington are eligible to apply for a permit and sell tobacco products or nicotine delivery products at the specified location in Arlington.
2. As part of the Tobacco and Nicotine Delivery Product Sales Permit application process, the applicant will be provided with the Arlington Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco and nicotine delivery product sales regarding federal, state and local laws regarding the sale of tobacco and this regulation.
3. Each applicant who sells tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco and Nicotine Delivery Product Sales Permit can be issued.
4. The fee for a Tobacco and Nicotine Delivery Product Sales Permit shall be \$500.00, renewable on January 1.
5. A separate permit is required for each retail establishment selling tobacco and/or nicotine delivery products.
6. Each Tobacco and Nicotine Delivery Product Sales Permit shall be displayed at the retail establishment in a conspicuous place.
7. No Tobacco and Nicotine Delivery Product Sales Permit holder shall allow any employee to sell tobacco products or nicotine delivery products until such employee reads this regulation and federal and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state and federal laws.
8. A Tobacco and Nicotine Delivery Product Sales Permit is non-transferable. A new owner of an establishment that sells tobacco or nicotine delivery products must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
9. Issuance of a Tobacco and Nicotine Delivery Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.
10. Issuance and holding of a Tobacco and Nicotine Delivery Product Sales Permit shall be conditioned on an applicant's on-going compliance with current Massachusetts Department of Revenue requirements and policies including, but not limited to, minimum retail prices of tobacco products.

11. A Tobacco and Nicotine Delivery Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding permit suspensions.

12. Mandatory Retailer Training: As part of the Tobacco and Nicotine Delivery Product Sales Permit renewal process, permit holders are required to send at least one (1) employee who works on the premises to a tobacco retailer training conducted by the Arlington Board of Health once per year. The Arlington Board of Health will schedule the trainings and notify permit holders of the date(s). Failure of the establishment to send a retailer may result in suspension or revocation of a permit to sell tobacco and nicotine delivery products in the Town of Arlington.

13. Maximum Number of Tobacco and Nicotine Delivery Product Sales Permits:

- a) At any given time, there shall be no more than **19** Tobacco Product Sales Permits issued in the Town of Arlington. No permit renewal will be denied based on the requirements of this subsection except any permit holder who has failed to renew his or her permit within thirty (30) days of expiration will be treated as a first-time permit applicant.
- b) As of [date], any permit not renewed either because a retailer no longer sells tobacco products, as defined herein, or because a retailer closes the retail business, shall be returned to the Arlington Board of Health and shall be permanently retired by the Board of Health and the total allowable number of Tobacco Product Sales Permits under paragraph (a) shall be reduced by the number of the retired permits.
- c) Applicants who purchase or acquire an existing business that holds a valid Tobacco Product Sales Permit at the time of the sale or acquisition of said business must apply within sixty (60) days of such sale or acquisition for the permit held by the Current Permit Holder if the Applicant intends to sell tobacco products, as defined herein. Such applicant may choose to apply for a Tobacco Product Sales Permit for an Adult-Only Retail Tobacco Store if the Current Permit Holder possessed the same or if a Tobacco Product Sales Permit for an Adult-Only Retail Tobacco Store is available per subsection (b).

14. Any permit holder who has failed to renew an existing permit within 30 days of expiration will be treated as a first-time permit applicant.

15. A purchaser of a business that holds a current Tobacco and Nicotine Delivery Product Sales Permit at the time of the sale of said business may apply, within sixty (60) days of such sale, for the permit held by the Seller if the Buyer intends to sell tobacco products and/or nicotine delivery products. An owner of a business that holds a current Tobacco and Nicotine Delivery Product Sales Permit that intends to change the physical location of the business in Arlington must notify the Board of Health in writing thirty (30) days before such change of location occurs. The permit will be reissued reflecting the continuation of said business at the new address. Any permit holder who has failed to notify the Board of Health in writing thirty (30) days before changing the physical location of the business will be treated as a first-time applicant.

**F. CIGAR SALES REGULATED:**

1. No retailer, retail establishment, or other individual or entity shall sell or distribute or cause to be sold or distributed a cigar unless the cigar is contained in an original package of at least four (4) cigars.
2. This Section shall not apply to:
  - a. The sale or distribution of any cigar having a retail price of two dollars and fifty cents (\$2.50) or more.
3. The Arlington Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

**G. PROHIBITION OF THE SALE OF BLUNT WRAPS:**

No person or entity shall sell or distribute blunt wraps in Arlington.

**H. PROHIBITION OF THE SALE OF FLAVORED TOBACCO AND NICOTINE DELIVERY PRODUCTS:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco or nicotine delivery product at retail, except in retail tobacco stores.

**I. MARIJUANA ACCESSORIES:**

Marijuana accessories, as defined herein, shall only be sold in marijuana establishments and adult-only tobacco stores.

**J. FREE DISTRIBUTION AND COUPON REDEMPTION:**

No person shall distribute, or cause to be distributed, any free samples of tobacco products or nicotine delivery products. No means, instruments or devices that allow for the redemption of all tobacco products or nicotine delivery products for free or cigarettes at a price below the minimum retail price determined by the Massachusetts Department of Revenue shall be accepted by any permit holder.

**K. OUT-OF-PACKAGE SALES:**

No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

**L. SELF-SERVICE DISPLAYS:**

All self-service displays of tobacco products and/or nicotine delivery products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

**M. VENDING MACHINES:**

All tobacco and/or nicotine delivery product vending machines are prohibited.

**N. NON-RESIDENTIAL ROLL-YOUR-OWN MACHINES:**

All Non-Residential Roll-Your-Own machines are prohibited.

**O. PROHIBITION OF THE SALE OF TOBACCO AND NICOTINE DELIVERY PRODUCTS BY HEALTH CARE INSTITUTIONS:**

No health care institution located in Arlington shall sell or cause to be sold tobacco or nicotine delivery products. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products or nicotine delivery products.

**P. PROHIBITION OF THE SALE OF TOBACCO AND NICOTINE DELIVERY PRODUCTS BY EDUCATIONAL INSTITUTIONS:**

No educational institution located in Arlington shall sell or cause to be sold tobacco or nicotine delivery products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

**Q. VIOLATIONS:**

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco and/or nicotine delivery products. The violator shall receive:

- a. In the case of a first violation, a fine of one hundred dollars (\$100.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days.
  - b. In the case of a second violation within 36 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days.
  - c. In the case of three or more violations within a 36 month period, a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.
  - d. The Board of Health reserves the right to revoke a Tobacco and Nicotine Delivery Product Sales Permit.
2. If a permit holder has obtained a permit or license from any other licensing or permitting authority within the Town of Arlington, the Board of Health shall notify such authority in writing of any violations of this regulation.
3. Refusal or failure to cooperate with inspections pursuant to this regulation may result in the suspension of the Tobacco and Nicotine Delivery Product Sales Permit for thirty (30) consecutive business days.
4. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco or nicotine delivery products directly to a consumer while his or her permit is suspended may be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days.
5. The Arlington Board of Health shall provide notice of the intent to suspend a Tobacco and Nicotine Delivery Product Sales Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. After a hearing, the Arlington Board of Health may suspend the Tobacco and Nicotine Delivery Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products and nicotine delivery products shall be removed from the retail establishment upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit. Failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of this regulation.

**R. NON-CRIMINAL DISPOSITION:**

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

**S. ENFORCEMENT:**

Enforcement of this regulation shall be by the Arlington Board of Health or its designated agent(s).

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Arlington Board of Health or its designated agent(s) and the Board shall investigate.

**T. SEVERABILITY:**

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

**U. EFFECTIVE DATE:**

This regulation shall take effect on April 11, 2018.

1. \_\_\_\_\_ 2. \_\_\_\_\_

Marie Walsh-Condon, MD

Kenneth Kohlberg, JD, MPH

3. \_\_\_\_\_

Kevin Fallon, DVM

Amended on 09/11/2013

Amended on 12/03/2014

Amended on 03/15/2015

Amended on 04/11/2018

# Mint, Menthol, and Wintergreen "Un-exemption" Language

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**Somerville - Voted on 12/13/2018, effective 4/1/2019**

## **C. Definitions:**

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, menthol, mint, wintergreen, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored Tobacco Product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

“Tobacco” flavor shall be considered a Characterizing Flavor for any product that relies on vaporization or aerosolization.

**E-Cigarette:** Any electronic device composed of a mouthpiece, heating element, battery and/or electronic circuits that relies on vaporization or aerosolization. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, e-hookah or under any other product name. “E-Cigarette” does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

**E. Tobacco Product Sales Permit:**

11. A Retail Store may sell (1) tobacco-flavored tobacco products such as cigarettes, cigars, chew tobacco, spit tobacco and any product that contains parts of leaves and/or stems of a tobacco plant and (2) unflavored solutions that are designed to be vaporized or aerosolized.

12. A Retail Tobacco Store or Smoking Bar may sell all types of unflavored and flavored tobacco products as well as unflavored and flavored solutions designed to be vaporized or aerosolized.

**G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and retail tobacco stores.

**E. Sale of E-Cigarettes Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any E-Cigarette, as defined herein, except in Smoking Bars and Retail Tobacco Stores.

**Needham - Voted on 1/11/2019, effective 7/1/2019**

**C. Definitions:**

**Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

**G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

## Ashland - Voted on 1/22/2019, effective 1/20/2020

### **C. Definitions:**

**Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

### **G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and retail tobacco stores.

## Swampscott - Voted on 4/23/2019, effective 7/1/2019

### **C. Definitions:**

Characterizing Flavor: A distinguishable taste or aroma, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, **menthol, mint, wintergreen,** herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

Flavored Tobacco Product: Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a Flavored Tobacco Product.

### **G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

## **Framingham - Voted on 4/25/2019, effective 1/1/2020**

### **D. Definitions:**

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a Tobacco Product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, menthol, mint, wintergreen, alcoholic beverage, herb or spice; provided, however, that no Tobacco Product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored Tobacco Product:** Any Tobacco Product or Component Part thereof that contains a Constituent that has or produces a Characterizing Flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a Tobacco Product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such Tobacco Product, that such Tobacco Product has or produces a Characterizing Flavor shall constitute presumptive evidence that the Tobacco Product is a Flavored Tobacco Product.

## **Walpole - Voted on 5/21/2019, effective 8/1/2019**

### **C. Definitions:**

**Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint or wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

### **G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and retail tobacco stores.

## Barnstable - Voted on 5/28/2019, effective 6/29/2019

### **C. Definitions:**

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component thereof, including, but not limited to, tastes or aromas relating to fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided however that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored Tobacco Product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a Flavored Tobacco Product.

### **G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

## **Brookline -Voted on 5/28/2019, requires AG approval before going into effect (no retailer exemption) - Taken from Brookline Town Meeting Warrant Article (new language highlighted)**

### **Section 8.23.2 - Definitions:**

**b. Characterizing flavor** - A distinguishable taste or aroma, other than the taste or aroma of a tobacco **product or component part thereof** ~~menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco or e-cigarette products or component part thereof~~ including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, **menthol, mint, wintergreen,** dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product, or the provision of ingredient information.

**g. E-Cigarette** - Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery, and/or electronic circuits that provides a vapor of liquid **flavored or unflavored** nicotine to the user, or relies on vaporization of solid nicotine or any liquid, with or without nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes, hookah pens, **electronic hookah, e-hookah, hookah sticks, personal vaporizers, mechanical mods, vape pens, vaping devices**, or under any other product name. "E-Cigarette" includes any

**component or part of an e-cigarette.**

**I. Flavored tobacco or e-cigarette product** - Any tobacco product or e-cigarette component part thereof that contains a constituent that has or produces a characterizing flavor (**including but not limited to menthol, mint, and wintergreen**). A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco or e-cigarette products, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco or e-cigarette products, that such tobacco or e-cigarette products has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco or e-cigarette products is a flavored tobacco or e-cigarette products.

**v. Tobacco Product**- Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

#### **Section 8.23.5 - Sale and Distribution of Tobacco Products:**

##### **I. Tobacco Sales:**

5. No entity shall sell or distribute or cause to be sold or distributed any Flavored Tobacco Product or e-cigarette products, except in retail tobacco stores.

**Harvard - Voted on 6/11/2019, effective 9/1/2019**

##### **§145-60 Definitions:**

**Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint or wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or

permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

**§145-64 Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and retail tobacco stores.

**Sharon - Voted on 6/12/2019, effective 12/31/2019**

**300-22A.4 Definitions:**

**Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, mint, menthol and wintergreen, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

**C. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

**Chatham - Voted on 6/17/2019, effective 9/1/2019**

**Section III Definitions:**

**3.4 Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**3.15 Flavored Tobacco Product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by

the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a Flavored Tobacco Product.

## **Section VI Sale and Distribution of Tobacco Products**

### **6.5 Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product at retail, in the Town of Chatham.

**Norwood - Voted on 6/19/2019, effective 9/15/2019**

### **C. Definitions:**

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

### **G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product.

## **Harwich - Voted on 9/10/2019, effective 1/1/2020**

### **C. Definitions:**

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored Tobacco Product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a Flavored Tobacco Product.

### **G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

## **Stoughton - Voted on 9/12/2019, effective 1/1/2020**

### **D. Definitions:**

**Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any menthol, mint, or wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

### **E. Applicability**

1. A holder of a valid Tobacco Product Sales Permit, as defined herein, that also possess a retail food permit and not adult-only may sell Tobacco Products without Characterizing Flavor but may not sell Smoke Accessories or Flavored Tobacco Products.
2. Adult-Only Retail Tobacco Stores, as defined herein, may sell Tobacco Products, Flavored Tobacco Products, and Smoke Accessories.

**Q. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult only (21 and older) retail tobacco stores.

**Acton - Voted on 10/7/2019, effective 1/1/2020**

**Article 19-2 Definitions:**

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored Tobacco Product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored Tobacco Product.

**Article 18-12 Prohibitions of the Sale of Blunt Wraps and Flavored Tobacco Products:**

18-12.1 No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.

**Norfolk - Voted on 10/1/2019, effective 1/30/2020**

**C. Definitions:**

**Characterizing Flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Flavored Tobacco Product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a Flavored Tobacco Product.

**G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and adult-only retail tobacco stores.



## Town of Arlington, Massachusetts

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### 2020 Board of Health Meeting Dates - Draft Schedule

#### ATTACHMENTS:

Type	File Name	Description
Reference Material	2020_Board_of_Health_Meeting_Schedule_Proposed.pdf	2020 BOH Meeting Schedule - Draft

## 2020 Board of Health Meeting Schedule:

- February 5, 2020
- April 8, 2020
- May 13, 2020
- June 17, 2020
- September 9, 2020
- October 14, 2020
- December 2, 2020

All meetings will begin at 5:30 pm and will be held at the Arlington Senior Center Ground Floor Conference Room, 27 Maple Street.